



House of Representatives

General Assembly

File No. 296

January Session, 2013

Substitute House Bill No. 6443

House of Representatives, April 2, 2013

The Committee on General Law reported through REP. BARAM of the 15th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING IMMIGRATION SERVICES FRAUD.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2013*) (a) As used in this section:
- 2 (1) "Immigration services" means services provided for a fee or other
3 compensation to a person who has come or plans to come to the
4 United States from a foreign country, or such person's representative,
5 in relation to any proceeding, filing or action affecting the
6 nonimmigrant, immigrant or citizenship status of a person which
7 arises under an immigration and nationality law, executive order or
8 presidential proclamation, or which arises under actions or regulations
9 of the United States Bureau of Citizenship and Immigration Services,
10 the United States Department of Labor or the United States
11 Department of State;
- 12 (2) "Provider" means any person, including, but not limited to, a
13 corporation, partnership, limited liability company, sole proprietorship
14 or natural person, that provides immigration services, but shall not

15 include (A) any person duly admitted to practice law in this state and
16 any person working directly under the supervision of such person
17 duly admitted to practice law; (B) any not-for-profit tax exempt
18 organization that provides immigrant assistance without a fee or other
19 payment from individuals or at nominal fees, as defined by the federal
20 Board of Immigration Appeals, and the employees of such
21 organization, when acting within the scope of such employment; or (C)
22 any organization recognized by the federal Board of Immigration
23 Appeals that provides services via representatives accredited by such
24 board to appear before the United States Bureau of Citizenship and
25 Immigration Services or Executive Office for Immigration Review, that
26 does not charge a fee or charges nominal fees, as defined by the federal
27 Board of Immigration Appeals;

28 (3) "Business day" means any day except a Sunday or a legal
29 holiday;

30 (4) "Immigration services contract" means an agreement by which a
31 buyer is entitled to immigration services; and

32 (5) "Buyer" means a person who enters into or receives the benefit of
33 an immigration services contract.

34 (b) A copy of the immigration services contract shall be delivered to
35 the buyer at the time the contract is signed. Each immigration services
36 contract shall (1) be in writing, (2) be signed by the provider and the
37 buyer, (3) designate the date on which the buyer actually signs the
38 contract, (4) identify the address of the location at which the buyer
39 entered the contract, (5) be in English and every other language in
40 which the provider provides or offers to provide immigration services,
41 (6) provide that such contract may be cancelled not later than three
42 business days after the date of receipt by the buyer of a copy of the
43 contract, and (7) include a statement of buyer's rights which complies
44 with the provisions of this subsection. The statement shall (A) appear
45 in the contract under the conspicuous caption: "BUYER'S RIGHT TO
46 CANCEL", and (B) read as follows:

47 "If you wish to cancel this contract, you may cancel by mailing a
48 written notice by certified or registered mail to the address specified
49 below. The notice must say that you do not wish to be bound by this
50 contract and must be delivered or mailed before midnight of the third
51 business day after you sign this contract. After you cancel, the provider
52 may request the return of all contracts and previously delivered
53 documents. The notice shall be delivered or mailed to:

54

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56 (Insert name and mailing address for cancellation notice.)"

57 The full text of this statement shall be in ten-point bold face type.

58 (c) (1) If a buyer cancels an immigration services contract pursuant
59 to subsection (b) of this section, the provider shall send the buyer a
60 written confirmation of cancellation not later than fifteen days after
61 receipt by the provider of the buyer's cancellation notice. If the
62 provider fails to send such written notice to the buyer not later than
63 fifteen days, the provider shall be deemed to have accepted the
64 cancellation.

65 (2) Cancellation shall be without liability on the part of the buyer
66 and the buyer shall be entitled to a refund of the entire consideration
67 paid for the contract not later than fifteen days. Such right of
68 cancellation shall not be affected by the terms of the contract and may
69 not be waived or otherwise surrendered.

70 (3) Any refund to the buyer as a result of cancellation of the contract
71 shall be delivered by the provider to the buyer not later than fifteen
72 business days after receipt by the provider of the notice of cancellation.

73 (d) Each immigration services contract entered into by a provider
74 shall include the following statement and read as follows:

75 "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND

76 MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL
 77 ADVICE. I AM NOT ACCREDITED TO REPRESENT YOU BEFORE
 78 THE UNITED STATES CITIZENSHIP AND IMMIGRATION
 79 SERVICES AND THE IMMIGRATION BOARD OF APPEALS."

80 The statement shall be in capital letters and not less than twelve-point
 81 bold face type.

82 (e) A buyer of an immigration services contract that is in material
 83 violation of this section shall have a right of action against the provider
 84 for recovery of triple the amount actually paid to the provider under
 85 the contract. In addition to any judgment awarded to the buyer, the
 86 court may allow reasonable attorney's fees.

87 (f) No provider shall (1) offer guaranteed results, (2) make
 88 representations of having influence over government officials, agencies
 89 or courts, or (3) make representations of access to programs or legal
 90 remedies not available to the general public.

91 (g) A buyer shall be able to terminate a contract for immigration
 92 services with a provider at will. Such right of termination shall not be
 93 affected by the terms of the contract and may not be waived or
 94 otherwise surrendered.

95 (h) A violation of any of the provisions of this section shall be
 96 deemed an unfair or deceptive trade practice under subsection (a) of
 97 section 42-110b of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2013	New section

Statement of Legislative Commissioners:

In subsections (b) and (c), "within" was changed to "not later than" for clarity.

GL

Joint Favorable Subst. -LCO

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill results in no fiscal impact to the Department of Consumer Protection (DCP) as it currently acts upon complaints in the area of immigration services fraud and few additional complaints are anticipated due to changes in the bill.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 6443*****AN ACT CONCERNING IMMIGRATION SERVICES FRAUD.*****SUMMARY:**

This bill sets requirements for immigration service provider written contracts, by requiring specified terms and notices. Presumably, it requires such a contract for providing these services. The bill also prohibits providers from making certain representations and guarantees and gives buyers a three-day cancellation period for a full refund and allows them to terminate the contract at any time.

The bill makes a provider liable for triple the amount the buyer actually paid under a contract found to be in material violation of the bill. Violations are also an unfair or deceptive trade practice.

The bill exempts the following from the contract requirements:

1. Connecticut-licensed attorneys and those who work directly under their supervision;
2. nonprofit tax exempt organizations, and their employees acting within the scope of their employment, that provide immigrant assistance for a nominal fee or for free;
3. any organization that does not charge a fee or charges nominal fees and is recognized by the federal Board of Immigration Appeals that provides services through representatives accredited by the board to appear before the U.S. Bureau of Citizenship and Immigration Services (USCIS) or Executive Office for Immigration Review.

EFFECTIVE DATE: July 1, 2013

IMMIGRATION SERVICES

Under the bill, immigration services mean services provided for a fee or other compensation to a person who has come or plans to come to the United States from a foreign country, or such person's representative. The service relates to any proceeding, filing, or action affecting the non-immigrant, immigrant, or citizenship status of the person under an immigration and nationality law; executive order; presidential proclamation; or action or regulation of USCIS or the federal or state labor departments.

CONTRACT REQUIREMENTS

The bill requires a copy of the immigration services contract to be delivered to the buyer when the contract is signed.

The contract must:

1. be in writing,
2. be signed by both parties,
3. designate the actual date the buyer signs the contract,
4. identify the address where the buyer entered the contract,
5. be in English and any other language in which the provider provides or offers to provide immigration services, and
6. provide that the contract may be cancelled within three business days after the buyer receives a copy of the contract (business days exclude Sundays and legal holidays).

The contract must also include a statement of the buyer's rights in 10-point bold face type that (1) appears in the contract under the conspicuous caption: "BUYER'S RIGHT TO CANCEL" and (2) reads as follows:

"If you wish to cancel this contract, you may cancel by mailing a written notice by certified or registered mail to the address specified below. The notice must say that you do not wish to be bound by this

contract and must be delivered or mailed before midnight of the third business day after you sign this contract. After you cancel, the provider may request the return of all contracts and previously delivered documents. The notice shall be delivered or mailed to:

....

....

(Insert name and mailing address for cancellation notice.)”

CONTRACT CANCELLATION/TERMINATION

The bill requires providers to send the buyer written confirmation of the cancellation within 15 days of receiving the buyer’s cancellation notice. If the provider does not send the notice, it is deemed an accepted cancellation.

Under the bill, cancellations can be done without liability to the buyer and entitle him or her to a full refund of the contract within 15 days. Any cancellation refund must be delivered by the provider to the buyer within 15 business days after receiving the cancellation notice. This right to a refund may not be affected by any contract terms, waived, or surrendered.

A buyer must be able to terminate a contract at any time and this right must not be affected by the contract terms and may not be waived or surrendered. It is unclear what type, if any, of refund will be given for contract termination after the three business days after signing.

DISCLAIMER NOTICE

The bill requires each contract the provider enters to include the following statement in capital letters and at least 12-point bold face type:

“I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE. I AM NOT ACCREDITED TO REPRESENT YOU

BEFORE THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES AND THE IMMIGRATION BOARD OF APPEALS.”

PROHIBITED ACTS

The bill prohibits a provider from (1) offering a guaranteed result or (2) making representations of (a) having influence over government officials, agencies, or courts or (b) access to programs or legal remedies not available to the general public.

PENALTIES

A provider may be liable to the buyer for triple the amount the buyer actually paid under the contract if the contract is found to be in material violation of the bill. In addition to the buyer’s judgment, the court may allow reasonable attorney’s fees.

Any violation of the bill is an unfair or deceptive trade practice.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the Department of Consumer Protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney’s fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

RELATED BILL

HB 5513, reported favorably by the Judiciary Committee, clarifies what notaries publics may not do in immigration matters.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 18 Nay 0 (03/12/2013)